

**Enrolled**  
**House Bill 2013**

Sponsored by COMMITTEE ON HEALTH CARE

CHAPTER .....

AN ACT

Relating to body art practitioners; creating new provisions; amending ORS 676.606, 676.610, 676.612, 676.613, 676.617, 676.622, 676.625, 676.992, 679.500, 690.350, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415 and 690.992; repealing ORS 690.355, 690.425, 690.430, 690.500, 690.507, 690.510, 690.515, 690.520, 690.530, 690.550 and 690.570; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**ABOLISH AND TRANSFER**

**SECTION 1.** (1) **The Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists is abolished. On the operative date of this section, the tenure of office of the members of the council ceases.**

(2) **All the duties, functions and powers of the council are imposed upon, transferred to and vested in the Oregon Health Licensing Agency.**

**RECORDS AND PROPERTY**

**SECTION 2.** (1) **The Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists shall deliver to the Oregon Health Licensing Agency all records and property within the jurisdiction of the council.**

(2) **The agency shall take possession of the records and property.**

**UNEXPENDED REVENUES**

**SECTION 3.** **The unexpended balances of amounts authorized to be expended by the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists and the body piercing registration and licensing programs established under ORS 690.510 and 690.520 for the biennium beginning July 1, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 1 of this 2011 Act are transferred to and are available for expenditure by the Oregon Health Licensing Agency for the biennium beginning July 1, 2009, as authorized by ORS 676.625.**

**ACTION, PROCEEDING, PROSECUTION**

**SECTION 4.** The transfer of duties, functions and powers to the Oregon Health Licensing Agency by section 1 of this 2011 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the agency is substituted for the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists in the action, proceeding or prosecution.

#### LIABILITY, DUTY, OBLIGATION

**SECTION 5.** Nothing in sections 1 to 7, 10 and 22 of this 2011 Act, the amendments to ORS 676.606, 676.610, 676.612, 676.613, 676.617, 676.622, 676.625, 676.992, 679.500, 690.350, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415 and 690.992 by sections 8, 11 to 21 and 24 to 32 of this 2011 Act or the repeal of ORS 690.355, 690.425, 690.430, 690.500, 690.507, 690.510, 690.515, 690.520, 690.530, 690.550 and 690.570 by section 33 of this 2011 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 1 of this 2011 Act. The Oregon Health Licensing Agency may undertake the collection or enforcement of any such liability, duty or obligation.

#### RULES

**SECTION 6.** (1) Notwithstanding the transfer of duties, functions and powers by section 1 of this 2011 Act, the rules of the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists in effect on the operative date of section 1 of this 2011 Act continue in effect until superseded or repealed by rules of the Oregon Health Licensing Agency. References in rules of the council to the council or an officer or employee of the council are considered to be references to the agency or an officer or employee of the agency.

(2) Notwithstanding the repeal of ORS 690.500, 690.507, 690.510, 690.515, 690.520, 690.530, 690.550 and 690.570 by section 33 of this 2011 Act, the rules of the agency relating to body piercing in effect on the operative date of the repeal of ORS 690.500, 690.507, 690.510, 690.515, 690.520, 690.530, 690.550 and 690.570 by section 33 of this 2011 Act continue in effect until superseded or repealed by rules of the agency.

**SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists or an officer or employee of the council, the reference is considered to be a reference to the Oregon Health Licensing Agency or an officer or employee of the agency.

#### BODY ART PRACTITIONERS

**SECTION 8.** ORS 690.350 is amended to read:

690.350. As used in ORS 690.350 to 690.430, unless the context requires otherwise:

[*(1) "Council" means the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists, created in the Oregon Health Licensing Agency.*]

[*(2) "Electrologist" means a person who practices electrolysis pursuant to the provisions of ORS 690.350 to 690.430.*]

[*(3) "Electrology facility" means any room or space or any part thereof where electrolysis is practiced or where the business of electrology is conducted.*]

(1) **"Body piercing" means the puncturing of a part of the body of a live human being to create a permanent hole for ornamentation or decoration.**

**(2) “Dermal implanting” means the insertion of an object under the skin of a live human being for ornamentation or decoration.**

[(4)] **(3) “Electrolysis”** means the process by which hair, with a series of treatments, is permanently removed from the skin by inserting a needle-conductor into the hair follicle and directing electrical energy toward the hair cell. The word “electrolysis” is used in generic form in ORS 690.350 to 690.430 and refers to modalities of galvanic electrolysis, thermolysis and combinations thereof.

[(5) *“Licensed electrologist” means a person licensed under the provisions of ORS 690.350 to 690.430 to practice electrolysis.*]

[(6) *“Licensed permanent color technician and tattoo artist” means a person licensed under the provisions of ORS 690.350 to 690.430 to practice tattooing.*]

[(7) *“Permanent color technician and tattoo artist” means a person who practices tattooing pursuant to the provisions of ORS 690.350 to 690.430.*]

[(8) *“Physician” means a person licensed to practice the healing arts by this state pursuant to ORS chapter 677, 684 or 685.*]

[(9) *“Schools of electrolysis” means career schools licensed by the Department of Education under ORS 345.010 to 345.450 where electrolysis and related subjects are taught.*]

[(10) *“Schools of permanent coloring or tattooing” means career schools licensed by the Department of Education under ORS 345.010 to 345.450 in which permanent coloring or tattooing and related subjects are taught.*]

[(11) *“Tattoo” means the indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the dermal portion of the skin upon the body of a live human being.*]

**(4) “Facility” means a fixed or mobile place of business operated on a regular or irregular basis for the purpose of providing services in one or more fields of practice.**

**(5) “Field of practice” means:**

**(a) Tattooing;**

**(b) Body piercing;**

**(c) Electrolysis;**

**(d) Dermal implanting; or**

**(e) Scarification.**

**(6) “License” means a written authorization issued under ORS 690.365 authorizing the holder to:**

**(a) Perform services in one or more fields of practice; or**

**(b) Operate a facility.**

**(7) “Scarification” means injury of the skin to produce a scar on a live human being for permanent ornamentation or decoration.**

[(12)] **(8) “Tattooing”** means the process by which [*the skin*] **a live human being** is marked or colored by insertion of nontoxic dyes or pigments [*into or under the dermal portion of the skin so as*] to form indelible marks for [*cosmetic, medical or figurative purposes*] **ornamentation or decoration.**

[(13) *“Tattoo facility” means any room or space or any part thereof where tattooing is practiced or where the business of tattooing is conducted.*]

[(14) *“Teacher” means a person who is registered by the Department of Education to teach in a school of electrolysis or school of permanent coloring or tattooing pursuant to the provisions of ORS 345.010 to 345.450 and 690.350 to 690.430.*]

**(9) “Temporary license” means a written authorization issued under ORS 690.365 temporarily authorizing the holder to:**

**(a) Perform services in a field of practice; or**

**(b) Operate a facility.**

**SECTION 9.** Section 10 of this 2011 Act is added to and made a part of ORS 690.350 to 690.430.

**SECTION 10.** (1) There is established within the Oregon Health Licensing Agency the Board of Body Art Practitioners, to advise the agency with regard to the regulation of fields of practice. The board consists of seven members appointed by the Governor.

(2) Members of the board must be residents of this state. Of the members of the board:

(a) Two members must be licensed under ORS 690.365 to perform body piercing, dermal implanting or scarification;

(b) One member must be licensed under ORS 690.365 to practice electrolysis;

(c) Two members must be licensed under ORS 690.365 to perform tattooing;

(d) One member must be licensed under ORS chapter 677, 678 or 685; and

(e) One member must be a member of the public who does not possess the professional qualifications of the other members.

(3) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. The Governor shall fill vacancies by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is eligible for appointment to serve on the board.

(4) The board shall meet at least once per year.

(5) Members of the board are entitled to compensation and reimbursement of expenses as provided in ORS 292.495.

**SECTION 11.** ORS 690.360 is amended to read:

690.360. *[No person shall:]*

*[(1) Sell, barter or offer to sell or barter a license;]*

*[(2) Purchase or procure by barter a license with intent to use it as evidence of the person's qualification to practice electrolysis or tattooing;]*

*[(3) Alter materially a license with fraudulent intent;]*

*[(4) Use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered;]*

*[(5) Willfully make a false, material statement in an application for licensure or for renewal of a license; or]*

*[(6) Operate an electrology facility or tattoo facility without obtaining an electrology facility license or tattoo facility license.]*

**(1) A person may not:**

(a) Perform or attempt to perform services in a field of practice without a license to perform services in that field of practice;

(b) Perform or attempt to perform services in a field of practice outside of a licensed facility;

(c) Display a sign or in any way advertise or purport to offer services in a field of practice without a license to perform services in that field of practice;

(d) Operate a facility, display a sign or in any way advertise or purport to offer services in a field of practice in a facility without a license to operate a facility or a temporary license to operate a facility;

(e) Knowingly make a false statement on an application to obtain or renew a license;

(f) Allow an individual in the employ or under the supervision or control of the person to perform services in a field of practice without a license to perform services in that field of practice;

(g) Sell, barter or offer to sell or barter a document evidencing a license;

(h) Purchase or procure by barter a document evidencing a license with intent to use the document as evidence of the person's qualification to provide services in a field of practice;

(i) Materially alter with fraudulent intent a license or temporary license;

(j) Use or attempt to use as valid a fraudulently obtained, counterfeited or materially altered license or temporary license; or

(k) Use or attempt to use as valid a fraudulently obtained, counterfeited or materially altered license or temporary license.

(2) ORS 690.350 to 690.430 do not limit, preclude or otherwise interfere with the practice of other persons or health care providers licensed in this state.

(3) Subsection (1)(a), (b) or (d) of this section does not apply to:

(a) A student while engaged in training at the direction of and under the direct supervision of the faculty of a school licensed under ORS 345.010 to 345.450 to teach a field of practice; or

(b) An individual self-administering body piercing.

**SECTION 12.** ORS 690.365 is amended to read:

690.365. (1)(a) *[An applicant for licensure shall pay a fee established by the Oregon Health Licensing Agency under ORS 690.350 to 690.430 and shall show]* **The Oregon Health Licensing Agency shall issue a license to perform services in a field of practice to an applicant who:**

(A) Shows to the satisfaction of the agency that the applicant:

*[(a) Has complied with the provisions of ORS 690.350 to 690.430 and the applicable rules of the agency;]*

*[(b)] (i) Is [not less than] at least 18 years of age;*

*[(c)] (ii) Has a high school diploma or equivalent education; and*

*[(d)] (iii) Has submitted evidence of completion of education and training prescribed and approved by the agency [under ORS 690.410; and];*

*[(e)] (B) Has passed an examination approved, administered or recognized by the agency[.]; and*

**(C) Pays fees established by the agency.**

*[(2) Subject to the provisions of ORS 676.612, the agency shall issue a license to each applicant who provides evidence satisfactory to the agency of completion of all requirements for licensure. An initial license shall be issued for one year unless otherwise specified by rule, and expires unless renewed on or before the expiration date by payment of required fees and demonstration of completion of continuing education requirements specified by rule.]*

*[(3)] (b) [Notwithstanding ORS 690.355 and subsections (1) and (2) of this section,] The agency may issue [demonstration and] a temporary [permits] license to perform [tattooing] services in a field of practice as prescribed by agency rule.*

**(2)(a) The Oregon Health Licensing Agency shall issue a license to operate a facility to a person who:**

**(A) Files an application in the form and manner prescribed by the agency;**

**(B) Pays fees established by the agency; and**

**(C) Complies with other requirements established by the agency by rule.**

**(b) The agency shall conduct periodic inspections of facilities to determine compliance with safety, infection control and sterilization requirements.**

**(c) A person holding a license to operate a facility must post the license in a conspicuous place at all times on the premises of the facility.**

**(d) The agency may issue a temporary license to operate a facility in accordance with rules adopted by the agency.**

**SECTION 13.** ORS 690.370 is amended to read:

690.370. *[(1) An applicant for licensure who is notified by the Oregon Health Licensing Agency that the applicant has fulfilled the requirements of ORS 690.365 (1)(a) to (d) shall appear at a time, place and before such persons as the agency may designate, for an examination.]*

*[(2)] The Oregon Health Licensing Agency shall offer an examination for applicants for licenses to perform services in each field of practice at least twice a year. [The] An applicant who fails any part of the examination may [apply to] retake the failed section [or sections twice without being required to obtain additional training] in accordance with rules adopted by the agency.*

**SECTION 14.** ORS 690.380 is amended to read:

690.380. (1) A person who holds a license under ORS 690.350 to 690.430 shall notify the Oregon Health Licensing Agency in writing of the regular address of the place or places where the person performs or intends to perform [*electrolysis or tattooing*] **services in a field of practice** and shall keep the license conspicuously posted in the place of business at all times.

(2) The agency shall keep a record of the place or places of business of each person who holds a license.

(3) Any notice required to be given by the agency to a person who holds a license may be given by mailing the notice to the address of the last place of business of which the person has notified the agency.

*[(4) The agency shall issue to each qualified applicant a license to operate an electrology facility and to advertise electrolysis services for which the facility is licensed.]*

*[(5) The agency shall issue to each qualified applicant a license to operate a tattoo facility and to advertise permanent coloring or tattooing services for which the facility is licensed.]*

*[(6) The agency may issue a single facility license to an applicant pursuant to ORS 676.617.]*

**SECTION 15.** ORS 690.385 is amended to read:

690.385. (1) Except as provided in [*subsection (2)*] **subsections (2) and (4)** of this section, a license issued under ORS 690.365 expires one year from the date of issuance. [*The licensee is responsible for filing a license renewal application form.*] **To renew the license**, the licensee must submit to the Oregon Health Licensing Agency:

(a) A completed renewal application[.];

(b) **The** required renewal fee; and

(c) Satisfactory evidence of having completed any required continuing education credits on or before the expiration date of the license as specified by agency rule.

(2) The agency may vary the date of license renewal by giving the applicant written notice of the renewal date being assigned and by making prorated adjustments to the renewal fee.

(3) The agency shall adopt by rule requirements for late renewal of a license, reactivation of an expired license or reinstatement of a license that has been expired for more than three consecutive years.

*[(4) All electrologists and permanent color technicians and tattoo artists must participate in continuing education, with guidelines and effective date to be established by rule of the agency.]*

**(4) A temporary license issued under ORS 690.365 expires as established by the agency by rule. A temporary license may not be renewed.**

**SECTION 16.** ORS 690.390 is amended to read:

690.390. [*Licensed practicing electrologists and permanent color technicians and tattoo artists shall meet the following standards and any others the Oregon Health Licensing Agency may adopt by rule*] **The Oregon Health Licensing Agency shall establish standards for practitioners in a field of practice. The standards must require:**

(1) [*Electrolysis and tattooing instruments shall*] **That instruments used in a field of practice** be sterilized in accordance with methods approved by the rules of the agency;

(2) [*Practicing electrologists and permanent color technicians and tattoo artists shall*] **A practitioner working in a field of practice** to be equipped with appropriate sterilizing equipment, [*with availability of*] hot and cold running water and a covered waste receptacle; and

(3) **A practitioner working in a field of practice to keep** case history cards [*shall be kept*] for each client.

**SECTION 17.** ORS 690.405 is amended to read:

690.405. [*The powers and duties of the Oregon Health Licensing Agency as related to ORS 690.350 to 690.430 are as follows:*]

*[(1) To authorize all disbursements necessary to carry out the provisions of ORS 690.350 to 690.430;]*

*[(2) To determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;]*

*[(3) To license persons who apply to the agency and who have qualified to practice electrolysis, permanent coloring or tattooing;]*

*[(4) To rent facilities when necessary to carry out the examination of applicants for licensure;]*

*[(5) To renew, reactivate or reinstate licenses;]*

*[(6) To suspend or revoke licenses or place licensees on probation in the manner provided by ORS 690.350 to 690.430;]*

*[(7) To appoint representatives to conduct or supervise the examination of applicants for licensure;]*

*[(8) To designate the time and place for examining applicants for licensure;]*

*[(9) Subject to the provisions of ORS chapter 183, to adopt rules that are necessary to carry out the provisions of ORS 690.350 to 690.430;]*

*[(10) To carry out the periodic inspection of facilities of persons who practice electrolysis or tattooing;]*

*[(11) To issue a tattoo facility license or a temporary tattoo facility permit to qualified applicants upon compliance with ORS 690.350 to 690.430;]*

*[(12) To issue an electrology facility license or a temporary electrology facility permit to qualified applicants upon compliance with ORS 690.350 to 690.430;]*

*[(13) Notwithstanding ORS 690.355, to issue demonstration and temporary permits to perform services as prescribed by agency rule; and]*

*[(14) To issue a single facility license to an applicant pursuant to ORS 676.617.]*

**(1) The Oregon Health Licensing Agency shall:**

**(a) Determine the qualifications, training, education and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;**

**(b) Adopt rules as necessary to administer ORS 690.350 to 690.430;**

**(c) Issue, deny, revoke, suspend and renew licenses;**

**(d) Maintain a public record of persons holding licenses;**

**(e) Establish standards of practice and professional responsibility for persons licensed by the agency to perform services in a field of practice;**

**(f) Select licensing examinations;**

**(g) Establish continuing education requirements for renewal of a license;**

**(h) Provide for waivers of examinations as appropriate;**

**(i) Appoint representatives to conduct or supervise examinations of applicants for licensure;**

**(j) Inspect the facilities of persons who perform services in one or more fields of practice; and**

**(k) Issue temporary licenses to qualified applicants in accordance with rules adopted by the agency.**

**(2) Before the agency adopts rules regulating body piercing of genitals or dermal implanting, the agency shall consult with the Oregon Medical Board to ensure that the rules protect public safety.**

**(3) The agency may consult with the Oregon Medical Board before adopting rules relating to other body art practices.**

**SECTION 18.** ORS 690.407 is amended to read:

690.407. In the manner prescribed in ORS chapter 183 for contested cases, the Oregon Health Licensing Agency may impose a form of discipline listed in ORS 676.612 against any person [*practicing electrolysis or permanent coloring or tattooing*] **performing services in a field of practice** for any of the grounds listed in ORS 676.612, and for any violation of the provisions of ORS 690.350 to 690.430, or the rules adopted thereunder.

**SECTION 19.** ORS 690.410 is amended to read:

690.410. (1) The Oregon Health Licensing Agency, in accordance with ORS chapter 183 and in consultation with the [*Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists*] **Board of Body Art Practitioners**, shall adopt by rule minimum standards of edu-

cation and training requirements for *[the practice of electrolysis, permanent coloring and tattooing]* **each field of practice.**

(2) The agency shall approve *[electrolysis, permanent coloring and tattooing courses of study]* **courses in each field of practice. To obtain approval of a course, the provider of a course must submit** an outline of instruction *[shall be filed with]* to the agency and *[with]* the Department of Education. The outline must include the approved courses, total hours of instruction, hours of lectures in theory and the hours of instruction in application of practical skills.

(3) Schools *[of electrolysis and schools of permanent coloring or tattooing]* **teaching a field of practice** must comply with the *[agency's]* safety and infection control rules **adopted by the agency** and are subject to inspection at the discretion of the agency. *[and the Department of Education. A report of the results of each inspection shall be submitted to the department.]*

*[(4) An owner of a facility that is also licensed by the Department of Education as a school of electrolysis or a school of permanent coloring or tattooing under ORS 345.010 to 345.450 may employ an individual licensed under ORS 690.350 to 690.430 and registered as a teacher by the Department of Education to perform electrolysis, permanent coloring or tattooing for instructional purposes.]*

**SECTION 20.** ORS 690.415 is amended to read:

690.415. (1) The Oregon Health Licensing Agency shall establish by rule and collect fees and charges for the following related to *[electrologists and permanent color technicians and tattoo artists]* **fields of practice:**

- (a) Application.
- (b) Examination.
- (c) Reciprocity.
- (d) Original license.
- (e) License renewal.
- (f) Delinquent renewal **of license.**
- [(g) License reactivation.]*
- (h) Replacement or duplicate license.
- (i) *[Demonstration and]* Temporary *[permits]* **license.**
- (j) *[Facility license]* **Verification of licensure.**

(k) Providing copies of official documents or records and for recovering administrative costs associated with compiling, photocopying or preparing and delivering the records.

**(L) Education or training provided by the agency.**

(2) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency as authorized by ORS 676.625.

**SECTION 21.** ORS 690.992 is amended to read:

690.992. (1) Violation of ORS 690.015 is a Class B misdemeanor.

(2) Violation of ORS *[690.355 or]* 690.360 is a Class A misdemeanor.

*[(3) Violation of ORS 690.507 is a Class A misdemeanor.]*

**SECTION 22. A certificate, license or registration issued under ORS 690.365, 690.380, 690.510 or 690.520 that was in effect immediately before the operative date of the amendments to ORS 690.365 and 690.380 by sections 12 and 14 of this 2011 Act and the repeal of ORS 690.510 and 690.520 by section 33 of this 2011 Act remains in effect until the original expiration date of the certificate, license or registration.**

**SECTION 23. Section 22 of this 2011 Act is repealed on January 1, 2013.**

**SECTION 24.** ORS 676.606 is amended to read:

676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency shall provide administrative and regulatory oversight and centralized service for the following boards, advisory councils and programs:

- (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;
- (2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;
- (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;



- (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- (5) Respiratory Therapist Licensing Board, as provided in ORS 688.800 to 688.840;
- (6) Environmental Health Registration Board, as provided in ORS chapter 700;
- (7) *[Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists]*  
**Board of Body Art Practitioners**, as provided in ORS 690.350 to 690.430;
- (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.185;
- [(9) Body piercing technician registration program and body piercing facility licensing program, as provided in ORS 690.500 to 690.570;]*
- [(10)]* **(9)** Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410; and
- [(11)]* **(10)** Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820.

**SECTION 25.** ORS 676.610 is amended to read:

676.610. (1)(a) The Oregon Health Licensing Agency is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers and for the organization of the agency.

(b) The Director of the Oregon Department of Administrative Services shall establish the qualifications for and appoint the Director of the Oregon Health Licensing Agency, who holds office at the pleasure of the Director of the Oregon Department of Administrative Services.

(c) The Director of the Oregon Health Licensing Agency shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Department of Administrative Services.

(d) The Director of the Oregon Health Licensing Agency *[shall be]* **is** in the unclassified service.

(2) The Director of the Oregon Health Licensing Agency shall provide the boards, councils and programs administered by the agency with such services and employees as the agency requires to carry out the agency's duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Oregon Health Licensing Agency shall appoint all subordinate officers and employees of the agency, prescribe their duties and fix their compensation.

(3) The Director of the Oregon Health Licensing Agency *[shall be]* **is** responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, *690.500 to 690.570]* and 694.015 to 694.185 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the Oregon Health Licensing Agency by other statutes.

**SECTION 26.** ORS 676.612 is amended to read:

676.612. (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, *[690.515,]* 694.147 and 700.111, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit a certificate, license, permit or registration to practice issued by the agency or may discipline or place on probation a holder of a certificate, license, permit or registration for commission of the prohibited acts listed in subsection (2) of this section.

(2) A person subject to the authority of a board, council or program listed in ORS 676.606 commits a prohibited act if the person engages in:

(a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the agency concerning the issuance or retention of the authorization.

(b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive.

(c) Making a representation that the certificate, license, permit or registration holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another certificate, license, permit or registration holder.

(e) Permitting a person other than the certificate, license, permit or registration holder to use the certificate, license, permit or registration.

(f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to the holder of a certificate, license, permit or registration or to the person or property of others in the course of performing the holder's duties.

(g) Practicing while under the influence of alcohol, controlled substances or other skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-impairing substances so as to create a risk of harm to the person or property of others in the course of performing the duties of a holder of a certificate, license, permit or registration.

(h) Failing to properly and reasonably accept responsibility for the actions of employees.

(i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.606.

(k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt shall be considered a conviction for purposes of this paragraph.

(L) Failing to report any adverse action, as required by statute or rule, taken against the certificate, license, permit or registration holder by another regulatory jurisdiction or any peer review body, health care institution, professional association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

(m) Violation of a statute regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606.

(o) Failing to cooperate with the agency in any investigation, inspection or request for information.

(p) Selling or fraudulently obtaining or furnishing any certificate, license, permit or registration to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.

(q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.606, or aiding or abetting such an act.

(r) Failing to pay an outstanding civil penalty or fee that is due or failing to meet the terms of any order issued by the agency that has become final.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the agency may require the fingerprints of a person who is:

(a) Applying for a certificate, license, permit or registration that is issued by the agency;

(b) Applying for renewal of a certificate, license, permit or registration that is issued by the agency; or

(c) Under investigation by the agency.

(4) If the agency places a holder of a certificate, license, permit or registration on probation under subsection (1) of this section, the agency, in consultation with the appropriate board, council or program, may determine and at any time modify the conditions of the probation.

(5) If a certificate, license, permit or registration is suspended, the holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the certificate, license, permit or registration may be reinstated by the agency if the conditions of suspension no longer exist and the holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement.

**SECTION 27.** ORS 676.613 is amended to read:

676.613. (1) In addition to all other remedies, when it appears to the Oregon Health Licensing Agency that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.360 to 675.410, 676.617, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430, [690.500 to 690.570 or] 694.015 to 694.185 or ORS chapter 700, the agency may, through the Attorney General or the district attorney of the county in which the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

(2) A court may issue an injunction under this section without proof of actual damages. An injunction issued under this section does not relieve a person from any other prosecution or enforcement action taken for violation of statutes listed in subsection (1) of this section.

**SECTION 28.** ORS 676.617 is amended to read:

676.617. (1) As used in this section, "single facility license" means a license to provide services in a single location in more than one of the following **fields of practice** [*areas*]:

(a) Barbering, esthetics, hair design or nail technology, as provided in ORS 690.005 to 690.235; **and**

[*(b) Electrolysis, as provided in ORS 690.350 to 690.430;*]

[*(c) Permanent coloring, as provided in ORS 690.350 to 690.430;*]

[*(d) Tattooing, as provided in ORS 690.350 to 690.430; and*]

[*(e) Body piercing, as provided in ORS 690.500 to 690.550.*]

**(b) Electrolysis, tattooing, body piercing, dermal implanting or scarification as provided in ORS 690.350 to 690.430.**

(2) The Oregon Health Licensing Agency may issue a single facility license to an applicant that:

(a) Owns the facility to be licensed;

(b) If a natural person, is at least 18 years of age or, if an entity other than a natural person, is formed and operated in accordance with Oregon law;

(c) Has paid all required fees, as determined by the agency; and

(d) Has filed an application in the form and manner required by the agency.

(3)(a) A single facility license expires annually, unless otherwise specified by rule adopted by the agency, on a date determined by the agency.

(b) A single facility license may be renewed by submitting, prior to the expiration date of the license, the required renewal fees and a renewal application in the form and manner prescribed by the agency.

(c) The agency may impose a delinquency fee or require a new application for the failure to renew a single facility license prior to the date on which it expires.

(4) The agency shall establish by rule and collect fees associated with single facility licenses. Fees shall be established for:

(a) Application;

(b) Original license;

(c) License renewal;

(d) Delinquent renewal;

(e) Replacement license; and

(f) Compiling, photocopying, preparing and delivering copies of documents and records.

(5) All moneys received by the agency under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account, and are appropriated continuously to and shall be used by the agency as authorized by ORS 676.625.

- (6) A single facility license holder shall ensure that the:
- (a) Single facility license is displayed in public view where services are being rendered; and
  - (b) Facility authorized by the single facility license complies with all statutes and rules governing facilities in which services in the practice areas authorized by the license of the holder are provided.

(7) The agency may suspend, condition, limit, revoke or refuse to issue or renew a single facility license, or may place on probation or otherwise discipline a single facility license holder, for the reasons specified in ORS 676.612, 690.167[,] **or** 690.407 [*or 690.515*] or for failure to comply with subsection (6) of this section.

**SECTION 29.** ORS 676.622 is amended to read:

676.622. (1) A transaction conducted through a state or local system or network that provides electronic access to the Oregon Health Licensing Agency information and services is exempt from any requirement under ORS 675.360 to 675.410, 676.605 to 676.625, 676.992, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to 690.430[, 690.500 to 690.570] and 694.015 to 694.185 and ORS chapter 700, and rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable and have the same force as original signatures.

**SECTION 30.** ORS 676.625 is amended to read:

676.625. (1) The Oregon Health Licensing Agency shall establish by rule and shall collect fees and charges to carry out the agency's responsibilities under ORS 676.605 to 676.625 and 676.992 and any responsibility imposed on the agency pertaining to the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606.

(2) The Oregon Health Licensing Agency Account is established in the General Fund of the State Treasury. The account shall consist of the moneys credited to the account by the Legislative Assembly. All moneys in the account are appropriated continuously to and shall be used by the Oregon Health Licensing Agency for payment of expenses of the agency in carrying out the duties, functions and obligations of the agency, and for payment of the expenses of the boards, councils and programs administered and regulated by the agency pursuant to ORS 676.606. The agency shall keep a record of all moneys credited to the account and report the source from which the moneys are derived and the activity of each board, council or program that generated the moneys.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting fees and charges credited to the account, the fees and charges may not exceed the cost of administering the agency and the boards, councils and programs within the agency, as authorized by the Legislative Assembly within the agency's budget, as the budget may be modified by the Emergency Board.

(4) All moneys credited to the account pursuant to ORS 675.405, 676.617, 680.525, 687.435, 688.728, 688.834, 690.235, 690.415, [*690.550,*] 694.185 and 700.080, and moneys credited to the account from other agency and program fees established by the agency by rule, are continuously appropriated to the agency for carrying out the duties, functions and powers of the agency under ORS 676.605 to 676.625 and 676.992.

(5) The moneys received from civil penalties assessed under ORS 676.992 shall be deposited and accounted for as are other moneys received by the agency and shall be for the administration and enforcement of the statutes governing the boards, councils and programs administered by the agency.

**SECTION 31.** ORS 676.992 is amended to read:

676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other penalty or remedy provided by law, the Oregon Health Licensing Agency may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted thereunder:

- (a) ORS 688.701 to 688.734 (athletic training);
- [*b*] ORS 690.500 to 690.570 (*body piercing*);]
- [*c*] (b) ORS 690.005 to 690.235 (cosmetology);

- [(d)] (c) ORS 680.500 to 680.565 (denture technology);
- [(e)] (d) ORS 687.405 to 687.495 (direct entry midwifery);
- [(f)] (e) ORS 690.350 to 690.430 [(*electrology and permanent coloring or tattooing*);] (**tattooing, electrolysis, body piercing, dermal implanting and scarification**)
- (g) (f) ORS 694.015 to 694.185 (dealing in hearing aids);
- [(h)] (g) ORS 688.800 to 688.840 (respiratory therapy);
- [(i)] (h) ORS chapter 700 (environmental sanitation);
- [(j)] (i) ORS 676.617 (single facility licensure);
- [(k)] (j) ORS 675.360 to 675.410 (sex offender treatment);
- [(L)] (k) ORS 678.710 to 678.820 (nursing home administrators); and
- [(m)] (L) ORS 676.612 (prohibited acts).

(2) The agency may take any other disciplinary action that it finds proper, including but not limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any statute listed in subsection (1) of this section or any rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a violation of ORS 694.042.

(4) In imposing a civil penalty pursuant to this section, the agency shall consider the following factors:

- (a) The immediacy and extent to which the violation threatens the public health or safety;
- (b) Any prior violations of statutes, rules or orders;
- (c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and
- (d) Any other aggravating or mitigating factors.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the agency from civil penalties under this section shall be paid into the General Fund of the State Treasury and credited to the Oregon Health Licensing Agency Account established under ORS 676.625. Such moneys are continuously appropriated to the agency for the administration and enforcement of the laws the agency is charged with administering and enforcing that govern the person against whom the penalty was imposed.

**SECTION 32.** ORS 679.500 is amended to read:

679.500. (1) A dentist licensed to practice dentistry in this state may administer local anesthesia to a person for the purposes of receiving permanent lip color from a [*licensed permanent color technician and tattoo artist*] **person licensed to perform tattooing under ORS 690.350 to 690.430** or having permanent hair removal in the lip area from a [*licensed electrologist*] **person licensed to perform electrolysis under ORS 690.350 to 690.430**.

(2) Prior to administering local anesthesia for the purposes authorized under subsection (1) of this section, the dentist must:

- (a) Receive a written order from a [*licensed permanent color technician and tattoo artist or a licensed electrologist*] **person licensed to perform tattooing or electrolysis under ORS 690.350 to 690.430**;
- (b) Obtain a current health history from and perform an oral examination of the person who will receive the anesthesia; and
- (c) Establish and maintain a patient record in accordance with rules adopted by the Oregon Board of Dentistry.

(3) The Oregon Board of Dentistry shall adopt rules authorizing a dentist licensed to practice dentistry in Oregon to administer local anesthesia for the purposes of tattooing human lips or having permanent hair removal in the lip area by a [*licensed permanent color technician and tattoo artist or a licensed electrologist licensed*] **person licensed to perform tattooing or electrolysis** under ORS 690.350 to 690.430.

**SECTION 33.** ORS 690.355, 690.425, 690.430, 690.500, 690.507, 690.510, 690.515, 690.520, 690.530, 690.550 and 690.570 are repealed on January 1, 2012.

## APPLICABILITY

**SECTION 34.** The amendments to ORS 690.992 by section 21 of this 2011 Act do not affect any action or proceeding begun before and pending on the operative date of the amendments to ORS 690.992 by section 21 of this 2011 Act. Any action or proceeding begun before and pending on the operative date of the amendments to ORS 690.992 by section 21 of this 2011 Act continues to be governed by ORS 690.992 as in effect immediately before the operative date of the amendments to ORS 690.992 by section 21 of this 2011 Act.

## OPERATIVE DATE

**SECTION 35.** (1) Sections 1 to 7 and 10 of this 2011 Act and the amendments to ORS 676.606, 676.610, 676.612, 676.613, 676.617, 676.622, 676.625, 676.992, 679.500, 690.350, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415 and 690.992 by sections 8, 11 to 21 and 24 to 32 of this 2011 Act become operative on January 1, 2012.

(2) The Oregon Health Licensing Agency and the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists may take any action before the operative date specified in subsection (1) of this section to enable the agency and the council to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the agency and the council by sections 1 to 7 and 10 of this 2011 Act and the amendments to ORS 676.606, 676.610, 676.612, 676.613, 676.617, 676.622, 676.625, 676.992, 679.500, 690.350, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415 and 690.992.

## UNIT CAPTIONS

**SECTION 36.** The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

## EMERGENCY CLAUSE

**SECTION 37.** This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

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**Passed by House April 19, 2011**

**Repassed by House June 2, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate May 31, 2011**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

.....  
Kate Brown, Secretary of State